

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

|                           |   |                        |
|---------------------------|---|------------------------|
| CHARLES NDHLOVU,          | : | MOTION TO VACATE       |
| BOP ID 61015-019,         | : | 28 U.S.C. § 2255       |
| Movant,                   | : |                        |
|                           | : | CIVIL ACTION NO.       |
| v.                        | : | 1:14-CV-753-WSD-CMS    |
|                           | : |                        |
| UNITED STATES OF AMERICA, | : | CRIMINAL ACTION NO.    |
| Respondent.               | : | 1:09-CR-241-11-WSD-CMS |

**FINAL REPORT AND RECOMMENDATION**

On March 1, 2016, the undersigned issued an Order directing former federal inmate Charles Ndhlovu to respond within fourteen days, either to (i) confirm that he remains at the last address he provided to the Court following his release by the Bureau of Prisons or (ii) provide an updated address. *See* [649]. As of March 29, Mr. Ndhlovu had not responded.

In view of Mr. Ndhlovu's failure to respond in any manner to the March 1, 2016 Order, the undersigned **RECOMMENDS** that this case be **DISMISSED WITHOUT PREJUDICE**. *See* LR 41.3A(2), NDGa. (dismissal authorized for failure to comply with a lawful court order).

The undersigned further **RECOMMENDS** that a Certificate of Appealability be **DENIED** because Mr. Ndhlovu does not meet the requisite standards. *See Slack v. McDaniel*, 529U.S. 473, 484 (2000)

(requiring a two-part showing (1) “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right,” *and* (2) “that jurists of reason would find it debatable whether the district court was correct in its procedural ruling”); *see also Spencer v. United States*, 773 F.3d 1132, 1138 (11th Cir. 2014) (holding that the *Slack v. McDaniel* standard will be strictly applied prospectively).

The Clerk is **DIRECTED** to terminate the referral of this case to the undersigned.

**SO RECOMMENDED AND DIRECTED**, this 4th day of April, 2016.

A handwritten signature in blue ink, reading "Catherine Salinas", is written over a horizontal line.

CATHERINE M. SALINAS  
UNITED STATES MAGISTRATE JUDGE